



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2021-0775]

RIN 1625-AA08

Special Local Regulation; San Juan Bay for Jurakan Triathlon, San Juan, PR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for navigable waters around the Isleta San Juan for the Jurakan triathlon event, San Juan, PR. The event includes a paddleboard competition around Isleta San Juan with approximately 30 competitive stand up paddleboard (SUP) participants. The temporary special local regulation is needed to protect personnel, vessels, and the marine environment from potential hazards created by the SUP race. The temporary special local regulation establishes a SUP race area where all persons and vessels, except those persons and vessels participating in or supporting the race, will be prohibited from entering, transiting, anchoring in, or remaining within the SUP race circuit unless specifically authorized by the Captain of the Port San Juan or a designated representative.

DATES: This rule is effective from 8:00 a.m. through 11:00 a.m., on November 13, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2021-0775 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Christopher O'Connor, Sector San Juan Prevention Department, Waterways Management Division U.S. Coast Guard; telephone 787-729-2374, email Christopher.M.OConnor@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The event is scheduled for November 13, 2021, and the Coast Guard did not have adequate time to clarify amplifying information or process the course race review. It is impracticable to publish an NPRM because we must establish this temporary special local regulation by November 13, 2021 in order to protect the public from the hazards associated with this event. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest

because immediate action is needed to minimize the potential safety hazards associated with the SUP race participants, participant vessels, and the general public.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port San Juan (COTP) has determined that potential hazards associated with the SUP race on November 13, 2021, will be a safety concern for anyone participating in the SUP race circuit around Isleta San Juan which includes certain waters of San Juan Bay. This rule is needed to protect participants, vessels, and the marine environment in the navigable waters within the temporary special local regulation while the duration of the SUP race as part of the Jurakan triathlon.

IV. Discussion of the Rule

This rule establishes a temporary special local regulation from 8:00 a.m. through 11:00 a.m. on November 13, 2021. SUP Action Paddleboard Co. is sponsoring the Jurakan Triathlon, where approximately 30 competitors will participate in the SUP race around Isleta San Juan. Small vessel craft including an 18 ft. boat and 3 Jet Skis will be operating in the immediate area as safety platforms. The temporary special local regulation establishes a regulated area that will cover waters around Isleta San Juan, including certain waters of San Juan Bay, San Juan, PR, designated as the race area or SUP race circuit. The duration of the temporary special local regulation is intended to protect participants, vessels, and the marine environment in these navigable waters while the duration of the SUP race. No vessel or person, except personnel and vessels participating in the race, will be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these

statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the rule being limited in duration, size, and scope. The temporary special local regulation will be enforced for a three hour period within certain waters around Isleta San Juan and is limited in duration and size. The rule is limited in scope as it will allow vessels to enter, transit through, anchor in, or remain within the race areas, during the enforcement period if authorized by the Captain of the Port San Juan or a designated representative. Although persons and vessels will not be able to enter, transit through, anchor in, or remain within the race area, without authorization from the Captain of the Port San Juan or a designated representative, they may operate in the surrounding area during the enforcement period. The Coast Guard will provide advance notification of the temporary special local regulation to the local maritime community by Broadcast Notice to Mariners via VHF-FM marine channel 16.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic

impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and

preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the creation of a temporary special local regulation in conjunction with a regatta or marine parade, lasting three hours that will prohibit entry of non-participant personnel and vessels within the SUP race circuit to ensure the safety of the participants, participant vessels and the general public during the event. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction

Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Add § 100.T07-0775 to read as follows:

§ 100.T07-0775 Jurakan Triathlon, Isleta San Juan, San Juan, Puerto Rico.

(a) *Regulated area.* The regulations in this section apply to the following area: Waters around Isleta San Juan including certain waters of San Juan Bay, from surface to bottom, encompassed by a line connecting the following points beginning at 18°27'34.2" N, 66°5'23.75" W; thence north-east to 18°27'46.22" N, 66°4'59.95" W; thence north to 18°28'14.05" N, 66°5'7.69" W; thence west to 18°28'13.62" N, 66°5'52.8" W; keep west to 18°28'21.54" N, 66°7'32.74" W; thence south-east to 18°27'29.38" N, 66°6'59.22" W; thence north-east to 18°27'40.7" N, 66°6'18.43" W; and along the end of San Antonio Channel back to the beginning point at San Juan Bay Marina, completing the SUP race

circuit. These coordinates are based on North American Datum 1983.

(b) *Definitions.* As used in this section—

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port San Juan (COTP) in the enforcement of the regulations in this section.

Participant means all persons and vessels registered with the event sponsor as a participants in the race.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the Captain of the Port San Juan or their designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone at (787) 289-2041, or a designated representative via VHF radio on channel 16. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the designated representative.

(3) The COTP will provide notice of the regulated area through advanced notice via broadcast notice to mariners and by on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 8:00 a.m. until 11:00 a.m., on November 13, 2021.

Gregory H. Magee

Captain, U.S. Coast Guard

Captain of the Port